

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

Case No. 24-11002

THE COOKIE FACTORY, LLC,

Chapter 7

Debtor.

NOTICE OF MOTION FOR AN ORDER COMPELLING THE PRODUCTION OF DOCUMENTS AND EXAMINATION OF CHRISTOPHER M. ALBERINO, CHIMALB, LLC, JOSEPH A. ALBERINO III, JJALB, LLC, MAVERICK VENTURES, LLC, AND 3 PARTNERS PASTRIES, LLC PURSUANT TO RULE 2004 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

PLEASE TAKE NOTICE THAT a hearing on the motion of the Chapter 7 Trustee, respectfully moves this Court before the Hon. Robert E. Littlefield Jr., United States Bankruptcy Judge, in the United States Bankruptcy Court, James T. Foley U.S. Courthouse, 445 Broadway, Albany, NY 12207 on April 23, 2025, at 9:15 a.m., or as soon thereafter as can be heard why an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, authorizing oral examination under oath of Christopher M. Alberino, CHIMALB, LLC, Joseph A. Alberino III, JJALB, LLC, Maverick Ventures, LLC, and 3 Partners Pastries, LLC compelling the production of documents relevant to this matter (the “Motion”), should be entered; AND for such other and further relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE THAT appearances may be made in-person at the courthouse OR by telephone via call-in number: 518-217-2288; and Conference ID 939500229#

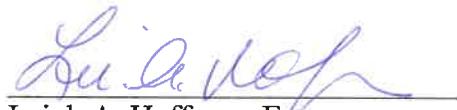
PLEASE TAKE FURTHER NOTICE THAT if you do not want the Court to grant the relief requested, or if you want the Court to consider your view on the Motion, then on or before seven (7) days prior to the return date of this Motion, you or your attorney if represented, must file a written response to the Motion, explaining your position, with the Clerk of the U.S. Bankruptcy

Court for the Northern District of New York located in the James T. Foley U.S. Courthouse, 445 Broadway, Albany, NY 12207. If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the date stated above.

PLEASE TAKE FURTHER NOTICE THAT you must also mail a copy of your written response to Leigh A. Hoffman, Lippes Mathias, LLP, at 54 State Street, Suite 1001, Albany, New York, 12207.

PLEASE TAKE FURTHER NOTICE THAT if you or your attorney do not take steps, the Court may decide that you do not oppose the Motion and may enter an Order granting the relief requested therein.

Dated: March 27, 2025



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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

Case No. 24-11002

THE COOKIE FACTORY, LLC,

Chapter 7

Debtor.

MOTION PURSUANT TO RULE 2004 OF THE FEDERAL RULES OF BANKRUPTCY
PROCEDURE COMPELLING THE PRODUCTION OF DOCUMENTS AND
EXAMINATION OF CHRISTOPHER M. ALBERINO, CHIMALB, LLC, JOSEPH A.
ALBERINO III, JJALB, LLC, MAVERICK VENTURES, LLC,
AND 3 PARTNERS PASTRIES, LLC

The Chapter 7 Trustee, Marc S. Ehrlich, (“Trustee”), by and through its attorneys, Lippes Mathias LLP, respectfully moves this Court for an order authorizing the examination of the principals of the debtor pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and compelling the production of documents on the attached Exhibit “1” and appearance for oral examination under oath of Christopher M. Alberino, CHIMALB, LLC, Joseph A. Alberino III, JJALB, LLC, Maverick Ventures, LLC, and 3 Partners Pastries, LLC (the “Motion”). In support of this motion, the counsel for the Trustee respectfully states as follows:

PROCEDURAL BACKGROUND

1. On September 10, 2024 (“Filing Date”), The Cookie Factory, LLC (“Debtor”), through counsel, filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the United States Code (“Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of New York (“Court”).

2. Trustee was appointed as the Trustee of Debtor's estate and is currently acting in that capacity. Movant was appointed as Trustee's counsel by Order dated March 4, 2025.

3. This request seeks to examine the financial affairs of the Debtor through the testimony and review of documents of its principals and related companies.

4. Trustee and Movant have examined the books, records and other documents (herein, "Debtor Records") provided by the Debtor. The Debtor Records indicate many financial transfers between entities owned and controlled by Christopher M. Alberino and Joseph A. Alberino III.

5. The requested examination is necessary to evaluate financial transactions and transfers made between Debtor and Christopher M. Alberino, CHIMALB, LLC, Joseph A. Alberino III, JJALB, LLC, Maverick Ventures, LLC, and 3 Partners Pastries, LLC. (collectively herein, "Related Entities"). The Trustee must analyze potential fraudulent conveyances and assess any further actions that may be required to protect the estate and creditors. Trustee is also analyzing potential transfers made by TCF to entities not controlled by or affiliated in some way with debtor and its two principals. Such transfers made by avoidable pursuant to the Trustee's statutory avoidance powers.

6. The Trustee is further examining transfers to related entities to determine whether the principals and related entities were used as mere conduits for funds then transferred by the mere conduits to subsequent non-creditor entities.

REQUEST FOR EXAMINATION AND DOCUMENT PRODUCTION

7. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, Movant requests an order directing Christopher M. Alberino and Joseph A. Alberino III, (herein, "Alberinos") as principals of the Debtor, to appear for an examination under oath and to

produce all documents identified on Exhibit “1”, related to each Alberino’s individual financial dealings with the Debtor and its financial transactions and affairs.

8. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, Movant requests an order directing Alberinos as principals of the CHIMALB, LLC, (herein, “CHIMALB”) to appear for an examination under oath and to produce all documents identified on Exhibit “1”, related to CHIMALB’s financial dealings with the Debtor and its financial transactions and affairs.

9. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, Movant requests an order directing Alberinos as principals of the JJALB, LLC, (herein, “JJALB”) to appear for an examination under oath and to produce all documents identified on Exhibit “1”, related to JJALB’s financial dealings with the Debtor and its financial transactions and affairs.

10. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, Movant requests an order directing, Alberinos as principals of the Maverick Ventures, LLC, (herein, “Maverick”) to appear for an examination under oath and to produce all documents identified on Exhibit “1”, related to Maverick’s financial dealings with the Debtor and its financial transactions and affairs.

11. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, Movant requests an order directing Alberinos as principals of the 3 Partners Pastries, LLC, (herein, “3PP”) to appear for an examination under oath and to produce all documents identified on Exhibit “1”, related to 3PP’s financial dealings with the Debtor and its financial transactions and affairs.

12. Debtor’s Records reveal transfers into and out of each of the persons/entities identified in this Motion, as well as other creditors and payees. Debtor’s Records do not reflect

obligations owed to each of the persons/entities identified in this Motion.

13. Documents listed in Exhibit "1" shall be produced by the Related Entities to Lippes Mathias, LLP Attn: Leigh A. Hoffman, Esq. 54 State Street, Suite 1001, Albany, New York 12207 or before May 16, 2025.

14. The examination shall take place at Lippes Mathias, LLP 54 State Street, Suite 1001, Albany, New York 12207 on June 6, 2025, at 10:00 AM or on a date to be agreed upon by the parties.

DOCUMENTATION REQUESTED

15. Trustee specifically requests the following categories of documents for the period of 24 months prior to the bankruptcy filing to present, as itemized on Exhibit 1, which is specifically incorporated herein.

16. The Trustee's demands are limited in scope and duration, focused on the transactions between the Debtor and the Related Entities.

17. Trustee's demand relates to all documents requested whether specifically in the control or custody of third parties over whom the Alberinos have control or influence or the Related Entities.

18. Trustee reserves the right to seek additional documents or testimony as deemed necessary.

LEGAL AUTHORITY

19. Rule 2004 permits discovery into the financial history of a Debtor, granting Courts the discretion to examine third parties who may have relevant information necessary to protect the estate and creditors. (Fed. R. Bankr. P. 2004).

20. Federal Rules of Bankruptcy Procedure 2004(a) authorizes the Court, upon motion of any party in interest or on an ex parte basis, to order the examination of any entity. *In re Bennett Funding Group, Inc.*, 203 B.R. 24, 27-28 [Bankr. N.D.N.Y. 1996]. Third parties are also subject to examination under this rule to the extent they possess knowledge of debtor's acts, conduct, or financial affairs which relate to or may affect the bankruptcy proceeding and the administration of the debtor's estate. *Id*; see *In re Dinubilo*, 177 B.R. 932, 940 (E.D. Cal. 1993); *In re Ecam Publications, Inc.*, 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991).

21. The scope of a Rule 2004 investigation is "broad and unfettered", designed to serve as an investigative tool to uncover information relevant to the administration of the estate and assist the trustees in identifying estate assets, including those that may have been concealed, whether intentionally or unintentionally. *In re Bennett*; *In re GHR Energy Corp.*, 33 B.R. 451, 453 (Bankr. D. Mass. 1983). See also *In re Drexel Burnham Lambert Group, Inc.*, 123 B.R. 702, 708 (Bankr.S.D.N.Y.1991); *In re Valley Forge Plaza Assocs.*, 109 B.R. 669, 674 (Bankr.E.D.Pa.1990).

22. The Trustee has made several demands upon the Debtor and Debtor's counsel for the documents which should be within the Debtor's possession. Trustee has followed up as has counsel for the Trustee. Efforts were made to obtain the necessary information consensually, but the documents needed have not been produced, necessitating this Motion.

23. The requested examination is necessary and appropriate as it concerns potential fraudulent transfers and questionable business transactions, which directly impact the creditors and the entirety of the estate. Here, the transfer of all Debtor's assets to 3 Partners Pastries, another entity owned by the Principals of the Debtor, just prior to bankruptcy filing, for no consideration and with no documentation, evidences the need for these examinations.

24. While Debtor's principals contend the transfer was made as a form of loan forgiveness, they offer no proof or documentation relating to or evidencing any alleged loans.

25. Debtor transferred substantial sums of money to the Related Entities.

26. Debtor's Records reveal monies owed to Debtor being diverted to the Related Entities named in this Motion.

CONCLUSION

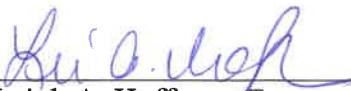
27. For the reasons stated above, Trustee has demonstrated the Rule 2004 Motion is reasonably necessary to reveal financials matters directly affecting the bankruptcy estate and the interest of the creditors.

WHEREFORE the Trustee respectfully requests that this Court enter an order Granting this Motion and authorizing the examination of CHRISTOPHER M. ALBERINO, CHIMALB, LLC, JOSEPH A. ALBERINO III, JJALB, LLC, MAVERICK VENTURES, LLC, AND 3 PARTNERS PASTRIES, LLC and for such other and further relief as to this Court may seem just and proper

- a. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure at Lippes Mathias, LLP 54 State Street, Suite 1001, Albany, New York 12207 on June 6, 2025, at 10:00 AM, or a date to be mutually agreed upon by the parties;
- b. Compelling the production of all requested documents by May 16, 2025;

c. Granting such other and further relief as this Court deems just and proper.

Dated: March 27, 2025


Leigh A. Hoffman, Esq.
Lippes Mathias, LLP
Counsel for the Chapter 7 Trustee
54 State Street, Suite 1001
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Tel: (518) 462-0110